

The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

**§§ 2104.161–2104.169 [Reserved]**

**§ 2104.170 Compliance procedures.**

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The Secretary, Commission of Fine Arts, shall be responsible for coordinating implementation of this section. Complaints may be sent to Secretary, Commission of Fine Arts, 708 Jackson Place NW., Washington, DC 20006.

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any

complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), is not readily accessible to and usable by handicapped persons.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by § 2104.170(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the head of the agency.

(j) The head of the agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the head of the agency determines that additional information is needed from the complainant, he or she shall have 60 days from the date of receipt of the additional information to make his or her determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

[51 FR 22895, 22896, June 23, 1986, as amended at 51 FR 22895, June 23, 1986]

**§§ 2104.171–2104.999 [Reserved]**

**PART 2105—RULES FOR COMPLIANCE WITH 5 U.S.C. 552, THE FREEDOM OF INFORMATION ACT**

Sec.

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AUTHORITY: 5 U.S.C. 552, as amended.

SOURCE: 40 FR 40802, Sept. 4, 1975, unless otherwise noted. Redesignated and amended at 51 FR 23056, June 25, 1986.

### **§ 2105.1 Purpose and scope.**

This part contains the regulations of the Commission of Fine Arts implementing 5 U.S.C. 552. The regulations of this part provide information concerning the procedures by which records may be obtained from the Commission. Members and employees of the Commission may continue to furnish to the public, informally and without neglecting the rights of requesters described herein, information and records which prior to enactment of 5 U.S.C. 552 were furnished customarily in the regular performance of their duties. Persons seeking information or records of the Commission may find it useful to consult with the Secretary before invoking the formal procedures set out below.

### **§ 2105.2 Requests for identifiable records and copies.**

(a) Formal public requests for information from the records of the Commission of Fine Arts shall be made in writing with the letter clearly marked "FREEDOM OF INFORMATION REQUEST." All such requests should be addressed to the Secretary, Commission of Fine Arts, 708 Jackson Place, NW., Washington, DC 20006.

(b) Records must be reasonably described. A request for all records falling within a reasonably specific category shall be regarded as conforming to the requirement that records be reasonably described if it enables the records requested to be identified by any process that is not unreasonably burdensome or disruptive of Commission operations.

### **§ 2105.3 Action on initial requests.**

(a) The Secretary will make a determination as to whether or not to release requested information. Generally, determination will be made to release

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the requested information if: (1) It is not exempt from disclosure or

(2) It is exempt from disclosure but its withholding is neither required by statute, nor supported by sound grounds.

(b) Determination will be dispatched within ten days, excluding Saturdays, Sundays, and legal public holidays, after initial receipt of the request.

(c) In unusual circumstances, the time for initial determination on requests may be delayed up to a total of ten additional days, excluding Saturdays, Sundays, and legal public holidays and notice of such delay shall be dispatched within the first ten days, excluding Saturdays, Sundays, and legal public holidays following the initial receipt of the request.

(d) Letters denying access to information will:

(1) Provide the requester with the reason for the denial.

(2) Inform the requester of his right to appeal the denial within 30 days.

(3) Give the name and title of the official to whom the appeal may be sent.

(4) Give the name and title of the official responsible for the denial.

### **§ 2105.4 Appeals.**

(a) The Chairman of the Commission is the appellate authority for all denials.

(b) The Chairman will act upon the appeal within twenty days, excluding Saturdays, Sundays, and legal public holidays.

(c) In unusual circumstances, the time for action on an appeal may be extended by an additional ten days, excluding Saturdays, Sundays, and legal public holidays minus any extension granted at the initial request level under § 2105.3(c).

(d) In the event that the appeal upholds the denial, the requester will be advised that there are provisions for judicial review of such decisions under the Freedom of Information Act.

### **§ 2105.5 Fees.**

(a) Fees shall be charged according to the schedule in paragraph (b) of this section for services rendered in responding to requests for Commission of Fine Arts records under this part unless determination is made that such

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charges or a portion of them are not in the public interest because furnishing the information primarily benefits the general public.

(b) The following charges will be assessed for the services listed:

(1) For copies of documents 8½"×14" or smaller, \$0.25 for the first copy of the first page and \$0.10 for each copy of each page thereafter.

(i) Ordinarily, no more than one copy of each page will be supplied.

(ii) Ordinarily, photographs 8½"×14" or smaller will be copied on a photocopy machine, rather than by photographing and printing of such photographs.

(2) When in responding to a request, copying of bound works such as books or periodicals, copying of documents larger than 8½"×14", photographing and printing of records, or other services not normally performed by the Commission and its staff are required, the direct cost of such services or material to the Commission of Fine Arts may be charged, but only if the requester has been notified of such cost before it is incurred.

(3) For each one quarter hour spent by clerical personnel in excess of the first quarter hour in searching for and producing a requested record, \$1.50.

(4) When a search cannot be performed by clerical personnel and the amount of time that must be expended in the search and collection of the requested records by such higher level personnel is substantial, charges may be made at a rate in excess of the clerical rate, namely, for each one quarter hour spent in excess of the first quarter hour by such higher level personnel in searching for a requested record, \$3.

(5) No charge will be made for time spent in resolving legal or policy issues affecting access to records of known contents. In addition, no charge will be made for the time involved in examining records in connection with determining whether they are exempt from mandatory disclosure and should be withheld, as a matter of sound policy. In addition, no charge will ordinarily be made if the records requested are not found. However, if the time expended in processing the request is substantial, and if the requester has been notified that it cannot be determined

in advance whether any records will be made available, fees may be charged.

(c) Where it is anticipated that the fees chargeable under this section will amount to more than \$10, and the requester has not indicated in advance his willingness to pay fees as high as are anticipated, the requester shall be notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In such cases, a request will not be deemed to have been received until the requester is notified of the anticipated cost and agrees to bear it. Such a notification will be transmitted as soon as possible but in any event, within five days, excluding Saturdays, Sundays, and legal public holidays after the receipt of the initial request.

(d) Payment should be made by check or money order payable to the U.S. Treasury.

(e)(1) Where the anticipated fee chargeable under this section exceeds \$10, an advance deposit of 25% of the anticipated fee or \$10, whichever is greater may be required.

(2) Where a requester has previously failed to pay a fee under this section, an advance deposit of the full amount of the anticipated fee may be required.

### PART 2106—RULES FOR COMPLIANCE WITH 5 U.S.C. 552a, THE PRIVACY ACT OF 1974

Sec.

2106.1 Rules for determining if an individual is the subject of a record.

2106.2 Requests for access.

2106.3 Access to the accounting of disclosures from records.

2106.4 Requests for copies of records.

2106.5 Requests to amend records.

2106.6 Request for review.

2106.7 Schedule of fees.

AUTHORITY: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a(f)).

SOURCE: 40 FR 52369, Nov. 10, 1975, unless otherwise noted. Redesignated and amended at 51 FR 23056, June 25, 1986.

#### § 2106.1 Rules for determining if an individual is the subject of a record.

(a) Individuals desiring to know if a specific system of records maintained by the Commission of Fine Arts contains a record pertaining to them should address their inquiries to the